

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of ALEJANDRO MARTINEZ ARAIZA for an Order to Conduct Discovery for Use in a Foreign Proceeding Pursuant to 28 U.S.C. § 1782,

Petitioner.

Misc. Case No. M-_____

**EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782
TO CONDUCT DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

Petitioner, Alejandro Martinez Araiza (“Petitioner” or “Araiza”), respectfully asks this Court to grant the Order attached as **Exhibit 1** to this Application, which grants Petitioner leave, pursuant to 28 U.S.C. § 1782 and Rules 26 and 45 of the Federal Rules of Civil Procedure, to serve Citibank USA, the King Baudouin Foundation, BBVA Compass Bank, J.P. Morgan Chase Bank, N.A., Wells Fargo, Standard Chartered Bank U.S., Bank of America, N.A., The Bank of New York Melon, Northern Trust International Banking Corporation, Deutsche Bank Trust Company of America, HSBC Bank USA, and UBS AG (collectively, the “Financial Entities”), with the subpoenas attached hereto as **Exhibit 2** to this Application, and in support thereof states as follows:

The requested relief is for the purposes of obtaining necessary discovery in aid of an ongoing Mexican criminal proceeding against the Non-Violence Project Foundation (“NVPF”) and the Non-Violence Project Mexico (“NVP Mexico”) filed as No. CI-FDF/T/UI 1/S/D/369/05-2019 (the “Mexican Criminal Proceeding”). That proceeding involves, in pertinent part, fraud allegations related to stolen and/or misappropriated funds by NVPF and NVP Mexico. The Financial Entities are the entities to be subpoenaed for bank records and other documents, which, as set forth in more detail below and the accompanying Declaration of Alejandro Martinez Araiza and Memorandum of Law, Petitioner seeks for use in the Mexican Criminal Proceeding. Based

upon the Declaration of Alejandro Martinez Araiza, its attached exhibits, and the accompanying Memorandum of Law to this Application, the Court should grant this Application *ex parte*.

A. The Mexican Criminal Proceeding

On May 6, 2019, Petitioner initiated the Mexican Criminal Proceeding with the Attorney General's Office in Mexico City. The Mexican Criminal Proceeding consists, in relevant part, of fraud allegations related to the misappropriation of funds by NVP Mexico and NVPF obtained through fraudulent investment agreements as well as the forging of documents and impersonation of public figures such as Yoko Ono. The discovery that Petitioner seeks through this Application will aid the Mexican Criminal Proceeding by, *inter alia*: (i) identifying the accounts held by the NVP Mexico and NVPF, transfers of funds to and from those accounts, and the flow of funds for USD denominated transactions to or from NVP Mexico or NVPF accounts; (ii) confirming the identities of those involved in the fraud; and (iii) rebutting factual positions already taken by NVPF and NVP Mexico. Notably, an applicant in a criminal proceeding in Mexico is entitled to introduce evidence obtained from foreign sources, such as the United States.

B. The Documents Sought

Petitioner seeks financial records and documents from the Financial Entities related to the account(s) held or maintained by NVPF, NVP Mexico, or NVP Mexico's principal, Mauricio Morales Bermudez, including the creation dates of the account(s), the identities of the signatories with authority to transfer money from these accounts, and the transfers of funds, including US dollar denominated transactions, to and/or from these account(s). These transactions include transfers of funds to and from NVPF, NVP Mexico and Mr. Bermudez's account(s) at: (i) Citibank USA; (ii) the King Baudouin Foundation; and (iii) BBVA Compass Bank, the U.S. affiliate of BBVA Bancomer (the Mexican financial institution NVP Mexico used to receive Petitioner's

payments). Petitioner also seeks discovery from the following financial institutions, which provide correspondent bank services and have potentially processed USD denominated transactions to and/or from NVPF and NVP Mexico account(s): (i) J.P. Morgan Chase Bank, N.A., (ii) Wells Fargo; (iii) Standard Chartered Bank U.S.; (iv) Bank of America, N.A.; (v) The Bank of New York Mellon; (vi) Northern Trust International Banking Corporation; (vii) Deutsche Bank Trust Company of America; (viii) HSBC Bank USA; and (ix) UBS AG.

C. Petitioner's Application Should Be Granted

Petitioner meets all the statutory criteria for the issuance of an order allowing the requested discovery under 28 U.S.C. § 1782. The Financial Entities are all located in this district, and the Petitioner seeks to use the documents he requests from the Financial Entities in aid of the Mexican Criminal Proceeding. The documents and information sought from the Financial Entities are necessary to uncover the identities of the NVPF and/or NVPF Mexico individuals who committed the fraud, rebut NVPF's and NVP Mexico's factual positions, and freeze and/or recover the stolen money. Moreover, as set forth in the accompanying Memorandum of Law, all the discretionary factors that this Court may consider likewise favor granting this *ex parte* Application. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004) (describing discretionary factors).

Accordingly, Petitioner respectfully requests that the Court (a) grant the Application for an Order to Conduct Discovery in a Foreign Proceeding *Ex Parte*; (b) enter the Proposed Order attached to this Application as **Exhibit 1**; (c) grant Petitioner leave, pursuant to 28 U.S.C. § 1782, to serve the subpoenas attached to this Application as **Exhibit 2**; and (d) grant any and all other further relief to Petitioner as deemed just and proper.

Respectfully submitted this 29th of May 2020.

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